W. 468, cited by the court in the principal case there was evidence of the existence of minerals in the land at the time the court held them to be an estate. "There may be two distinct and separate freeholds in the same parcel of land, if it contain minerals, quarries of stone, and the like, the one embracing the surface, the other the mines." 2 WASH. REAL PROP., Ed. 4, p. 375. At least one solution is possible. The use of the term *undiscovered* minerals presupposes the existence of minerals in the land that are susceptible of discovery. To give this construction to the term, however, reads into the case the fact that there were minerals in the land, of which fact the court expressly says there is no evidence. The purpose of the statutory notice is undoubtedly to give all those claiming an interest in the land under the last recorded deed an opportunity to protect their interests. To hold that the holder of the reservation is entitled to notice under the statute on the ground that he is still the "grantee in the last recorded deed" as to minerals is one thing, but to hold that undiscovered minerals constitute an estate in land where there is no evidence of the existence of minerals in the land is another, and was perhaps somewhat beside the point necessary to be decided in the case. However, the principle of the case is important, especially to the Northern Peninsula of Michigan, where many valuable mines and ore deposits have in late years been discovered on lands, the taxes on which have been neglected, but which lands, owing to their location in the so-called mineral belt, had been conveyed in most instances by the patentees, subject to mineral reservations. (BAINBRIDGE'S LAWS OF MINES & MINERALS, p. 4.) The importance of serving notice on the owners of mineral rights under such reservations, whether minerals have been discovered on the lands or not, is shown by the decision in the principal case. Until notice is served upon each part owner, and the statutory proof thereof made and filed, the right to redemption remains to all. *White* v. *Shaw,* 150 Mich. 270, 114 N. W. 210; *Dolph* v. *Norton,* 158 Mich. 417, 123 N. W. 13.

MUNICIPAL CORPORATIONS—LIABILITY OF COUNTY FOR ATTORNEY FEES FOR DEFENDING INDIGENT PERSONS.—Plaintiff brought an action against the defendant county to recover for services rendered by him under an assignment made by the District Court of said county in defending an indigent person charged with murder. His claim had been duly presented to the Board of County Commissioners, and had been disallowed. The Utah statute (C. L. 1907, § 4767), provides for such appointment of counsel for the defense of indigent persons charged with crime; but no provision is anywhere made for any compensation of an attorney for such services. Upon demurrer, the question was presented whether under the circumstances outlined the plaintiff had any claim at all for compensation against the county. *Held,* in the absence of express legislative authority, plaintiff was not entitled to any compensation, and defendant county would have no authority to allow his claim for same. *Pardee* v. *Salt Lake County* (Utah 1911) 118 Pac. 122.

In deciding this case, the court recognizes the line of decisions on both sides of this question, and decides that the weight of reason as well as the great numerical weight of authority is against the allowance of compensation

for such services. It is almost uniformly held that such fees are not assessable as costs against the county. *Arkansas County* v. *Freeman, et al.*, 31 Ark. 266; *People* v. *Supervisors*, 28 How. Pr. 22. The duty of defending indigents in courts of justice is assumed by an attorney as one of his professional duties. COOLEY, CONST'L LIM., Ed. 5, 408; *Rowe* v. *Yuba County*, 17 Cal. 62; *Wayne Co.* v. *Waller*, 90 Pa. St. 99, 35 Am. Rep. 636. It is also a duty incumbent upon him as an officer of the court. He must bear the burdens of being a court officer as well as enjoy the privileges connected with such office. *Presby* v. *Klickitat County*, 5 Wash. 329, 31 Pac. 876; *Wayne County* v. *Waller, supra.* Moreover, a board of commissioners can allow only such claims against the county as are authorized by law. *Dismukes* v. *Noxubee County Supervisors*, 58 Miss. 612, 38 Am. Rep. 339. 2 DILLON, MUN. CORP., Ed. 5, § 793-795. Claims for services such as those in the principal case are the proper subject for legislative enactment, and not for judicial determination. *People* v. *Supervisors of Erie County*, 1 Sheld. 517. However, such claims upon the public treasury may be by necessary implication from statutory authority, though not granted by express terms. *Wayne County* v. *Waller, supra; Hyatt* v. *Hamilton County*, 121 Ia. 292, 96 N. W. 855, 63 L. R. A. 614, 100 Am. St. Rep. 354. It is at this point that the two lines of authority divide. Three states, Iowa, Indiana and Wisconsin, have held that the county can be held liable for services under assignment by the court without express statutory authority for such compensation. They hold that the county may be liable by implication for some expenses not directly specified by statute, and that this is such an expense. *Hyatt* v. *Hamilton County, supra; Hall* v. *Washington County*, 2 G. Greene 473. Though the county commissioners could not themselves have contracted for such services, the county is liable for them when performed under a proper appointment of the county court. *Board of Montgomery Co. Com.* v. *Courtney*, 105 Ind. 311, 4 N. E. 896; *Webb* v. *Baird*, 6 Ind. 13; *Carpenter* v. *County of Dane*, 9 Wis. 274. The Wisconsin court has gone so far in this direction as to hold that a statute prohibiting the collection of fees from a county for the defense of indigent persons is void. *Dane County* v. *Smith*, 13 Wis. 585, 80 Am. Dec. 754. The opinion in the principal case furnishes an exhaustive review of the arguments and authorities on both sides of this question.

MUNICIPAL CORPORATIONS—ORDINANCES—OFFICERS DE FACTO.—The prosecutor sought by this writ to test the validity of an ordinance abolishing an office held by him. One member of the council, whose vote was essential to make a majority in passing the ordinance was at the time a non-resident of the ward he was representing in council. The city charter provided that such non-residence constituted a vacancy, to supply which the council should call a special election in the ward. No action had been taken by the council to declare a vacancy or to order a special election. *Held,* the ordinance so passed was valid, the member being a *de facto* officer. *McAvoy* v. *Inhabitants of Trenton* (N. J. 1911) 80 Atl. 950.

The theory of the case is that the ordinance was *of interest to the public,* and though a vacancy might have been declared no action was taken by the